



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

2006 JAN 20 AM 8:57

FILED  
EPA REGION VIII  
HEARING CLERK

DOCKET NO.: CWA-08-2005-0018

IN THE MATTER OF:

SIERRA CONSTRUCTION CO., INC.

Lynch, Wyoming

RESPONDENT

)  
)  
)  
)  
)  
)

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

1-20-06

DATE

Carol A. LeBoo  
Acting Regional Judicial Officer

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

2006 JAN 20 AM 8:57

IN THE MATTER OF

Sierra Construction Company, Inc.  
Linch, Wyoming

Respondent.

) Docket No. CWA-08-2005-0018

)

)

)

)

)

**CONSENT AGREEMENT**

FILED  
EPA REGION VIII  
HEARING CLERK

Complainant, United States Environmental Protection Agency Region 8 (EPA), and  
Respondent, Sierra Construction Company, Inc., hereby consent and agree as follows.

1. On or about May 12, 2005, Complainant issued to Respondent an Administrative Complaint alleging certain violations of 40 CFR Part 112 and section 311(j) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. §1321(j), as amended by the Oil Pollution Act of 1990.

2. This Consent Agreement shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

3. Respondent admits that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondent. Respondent waives right to a hearing, any defenses they might have as to jurisdiction and venue, and, without admitting or denying the factual allegations contained in the Complaint, consents to the terms of this Consent Agreement.

4. Respondent, by executing this Consent Agreement, hereby certifies to EPA that they are now in compliance with each of the relevant provisions of section 311(j) of the Act, 33 U.S.C. §1321(j) and 40 CFR Part 112.

5. Respondent consents to the payment of a civil penalty in the amount of twenty thousand dollars (\$20,000.00).

6. Respondent agrees and consents to the following:

a. After Respondent has received the Final Order in this matter, Respondent shall pay a civil penalty of twenty thousand dollars (\$20,000.00) by sending certified or cashier's checks, **payable to "Oil Spill Liability Trust Fund,"** with the docket number and Respondent's name written on the check, to:

Jane Nakad (8ENF-T)  
Technical Enforcement Program (8ENF-T)  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action.

b. **Copies of the cashier's or certified checks** shall be sent simultaneously to:

Tina Artemis  
Regional Hearing Clerk (8RC)  
U. S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

and Marc D. Weiner (8ENF-L)  
Legal Enforcement Program  
U. S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

7. Respondent further agrees and consents that if Respondent fails to make the payment referenced in the paragraph above, Respondent will:

- a. Pay interest of six percent (6%) per annum on any amounts specified in subparagraph 6.a., above, which will begin to accrue from the specified due date;
- b. Pay a handling charge of fifteen dollars (\$15.00) that will be assessed on the 31<sup>st</sup> day and each 30-day period that any amounts specified in subparagraph 6.a., above, are due and unpaid; and
- c. Pay an additional penalty of six percent (6%) per annum that will be assessed on any amounts due and unpaid if payment is not received within 90 days of the due date.

8. All late payments received by Respondent will be applied first to the charges specified in subparagraphs 7. a.- c., above, and next to any unpaid principal amount.

9. The penalty specified in Paragraph 5, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

10. This Consent Agreement constitutes a settlement by EPA of all claims for civil penalties pursuant to the CWA for the violations alleged in the Complaint. Nothing in this Consent Agreement is intended to nor shall be construed to operate in any way to resolve any criminal liability, if any. Compliance with this Consent Agreement shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

11. Each undersigned representative of the parties to this Consent Agreement certifies that he/she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

12. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY REGION 8  
Office of Enforcement, Compliance  
and Environmental Justice, Complainant.**

Date: 1.19.06

By: Elisabeth Evans  
Elisabeth Evans  
Director  
Technical Enforcement Program

Date: 1/19/06

By: Michael T. Risner  
Michael T. Risner, Director  
David Janik, Supervisor  
Legal Enforcement Program

Date: 1/19/06

By: Marc Weiner  
Marc Weiner, Attorney  
Legal Enforcement Program

**Sierra Construction Company, Inc., Respondent.**

Date: 18 Jan 2006

By: Ronald B. Lynch  
Ronald B. Lynch  
(Print name of signatory)

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **SIERRA CONSTRUCTION CO., INC.**, **DOCKET NO.: CWA-08-2005-0018** was filed with the Regional Hearing Clerk on January 20, 2006.


Further, the undersigned certifies that a true and correct copy of the document was delivered to Marc Weiner, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on January 20, 2006, to:

Keith P. Tyler  
P. O. Box 2671  
Casper, WY 82602

And hand carried to:

Carol A. LeBoo  
Acting Regional Judicial Officer  
U. S. Environmental Protection Agency – Region 8  
999 18<sup>th</sup> Street, Suite 300 (8RC)  
Denver, CO 80202-2466

January 20, 2006

  
Tina Artemis  
Regional Hearing Clerk



Printed on Recycled Paper